SBCivil Writ Petition No.1941/2005

Smt. Radha Devi
Vs.
State of Rajasthan & Ors.

Date of Order :: 15th September, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. N.M.Vyas, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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By this petition for writ the petitioner has claimed for interest @ 12% per annum for delayed payment of retiral benefits granted to her being widow of Late Shri Parmanand Sewak, an employee of Panchayat Samiti, Jaisalmer.

In brief, facts of the case are that Shri Parmanand Sewak (husband of the petitioner) by way of filing a writ petition (SBCWP No.3874/97) before this Court assailed validity and propriety of the order dated 11.3.1996 passed by Vikas Adhikari, Panchayat Samiti, Jaisalmer terminating him from service. During pendency of writ petition aforesaid Shri Parmanand Sewak died and the present petitioner was substituted as petitioner in writ petition NO.3874/97. The writ petition aforesaid came to be accepted by this Court by judgment dated 18.10.2002 by quashing the order of termination dated 11.3.1996. The petitioner was declared entitled to get all retiral benefits accruing as such. The State of Rajasthan, Zila Parishad, Jaisalmer and the Vikas Adhikari, Panchayat Samiti,

Jaisalmer being aggrieved by judgment dated 18.10.2002 preferred a special appeal before Division Bench of this Court and that too came to be dismissed by judgment dated 10.3.2003. The respondents released pensionary benefits in favour of the petitioner on 30.11.2004. The contention of counsel for the petitioner is that payment of pension and other retiral benefits are given to the petitioner after a lapse of about eight years, therefore, the petitioner is entitled for getting interest on delayed payment of retiral benefits.

A reply to the writ petition has been filed on behalf of the respondents. The relevant portion of that reads as under:-

> "That averments contained in ground (ii) & (iii) of the writ petition are replied in the manner that after decision of the D.B. Appeal the matter to the Pension Department on 24.11.2003, but the same was received with objection that from 9.12.1982 to 28.2.1996 leave was not sanctioned by the State. Therefore, the matter was sent to the Director of Education, Bikaner vide letter No.2573 dt. 21.2.04. That on 23.8.2004 again reminder was sent to the Directors for disposal of the matter at early. After sanctioned the same matter was again sent to the Pension Department vide letter no.1076 dt.23.9.2004 after removing the objections. Thereafter the pension and other benefits were released to the petitioner on 30.11.04.

> The copy of the letter no. Therefore, it reveals that no intentionally or otherwise the respondents have caused delay."

From perusal of the facts stated above it is apparent that entitlement of the petitioner acquired finality in the month of March, 2003 and thereafter some time took in settling leave account of Shri Parmanand Sewak. The time taken in present set of circumstances where the employee was absent from duties for a period of 14 years cannot be said unreasonable. In view of it whatever time taken by the respondents in making payment of retiral benefits to the petitioner does not create any right in favour of the petitioner to get interest.

The writ petition is accordingly dismissed.

A preliminary objection raised by counsel for the respondents with regard to adjudication of question of payment of interest under Article 226 of the Constitution of India is not decided by this Court in view of the fact that the petition is dismissed on merits.

(GOVIND MATHUR),J.

kkm/ps.